IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 14067 of 2003
with
MISC. CIVIL APPLICATION NO 976 OF 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KALIDAS R PATEL (PROPRIETOR) SHIVAM CATERER - Petitioner(s)
Versus
PRAHLADBHAI SANKALCHAND PATEL & 7 - Respondent(s)

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Appearance :
MR DG CHAUHAN for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1 - 7.
MS HINA DESAI for Respondent(s) : 1 - 8.

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 16/01/2006

ORAL JUDGMENT

Heard learned advocate Mr. D.G. Chauhan for petitioner and Ms. Heena Desai for Respondent No. 1 to 7. Notice has been served on Respondent No. 8 also but no one has remained present on behalf of respondent No.8. Present petition is filed by Shri Kalidas R. Patel, Proprietor (Shivam Caterer), Industrial Canteen Contractor, 6/A, Radhakrishna Society, Manglapura Road, Anand C/o Amul Dairy Canteen, Anand, District Kheda challenging award made by Labour Court, Anand in Reference (LCA) No. 324 of 1994 (Old No.347 of 1987) dated 20.3.2003 wherein labour court, Anand, while partly allowing said reference, directed First Party Amul Dairy Canteen at and post Anand to reinstate concerned workmen in service on their original post with continuity of service without back wages for intervening period. Contention was raised by petitioner that

he was not a party in reference and no notice of reference was served upon him and he has not appeared before labour court. It is his submission that at relevant time, he was not contractor of Amul Dairy, Anand, therefore, he was not at all connected with this dispute. It is, therefore, his contention that this award is not binding to him.

I have considered contentions raised by learned advocates for parties.

Considering one fact that from record and after perusal of award, it is correct that present petitioner was not a party to reference proceedings. No such notice was served to petitioner by labour court. He was not appearing before labour court. He has not participated in proceedings before labour court. He was not contractor of Amul Dairy Canteen at the relevant time when dispute was raised by concerned

workmen. Service of respondent workmen were terminated on 30.4.1987 by then canteen contractor. Therefore, looking to the directions issued by labour court, same are not binding to petitioner as petitioner is not directed to reinstate respondents in service. Directions have been issued by labour court against first party Amul Dairy Canteen, At and Post Anand to reinstate present respondent No.1 to 7 in service without back wages but with continuity of service and not issued against present petitioner Kalidas Patel. Said first party has not challenged impugned award before this Court. Therefore, award in question is not binding to petitioner. With these observations, this petition is disposed of. Rule is discharged. No order as to costs.

Since main Special Civil Application is disposed of, aforesaid application shall not survive. Same is, therefore, disposed of as not surviving. No order as to costs.

(H.K. Rathod,J.)

Vyas